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502 Waterford Road
Silver Spring, MD 20901
August 24, 2001

Mr. Robert L. Stephenson II
M.P.H.
Director, Division of Workplace Programs
CSAP
5600 Fishers Lane
Rockwall II, Suite 815
Rockville, MD 20857



Dear Mr. Stephenson:

I would like to offer comment on the proposed Mandatory Guidelines for Federal Workplace Drug Testing Programs published in the August 21, 2001, "Federal Register":

1. If certified laboratories have not been doing such testing on all samples up until now, how can their claim of an increase in the incidence of substituted and adulterated samples be substantiated? More to the point, why should it be believed? These firms already have the authority to test any sample they suspect of being substituted or adulterated. They have a vested financial interest in any recommendation by them that such testing be mandatory. Thirteen million samples is a lot of potential income for these firms. It would appear that taxpayers have the right to ask on what grounds their assertions of an increase in substituted and adulterated samples are based. The proposed revised guidelines only give current statistics and nothing from a past comparable time period with which to compare. In short, we taxpayers are being asked to buy a very expensive pig in a very expensive poke.
2. How will employees' rights be protected when the definition of a substituted or adulterated sample is anything outside the statistical profile of "normal" human urine? Is it the Department's contention that every single human being falls into the normal category? If not, how on earth is an employee supposed to prove he or she is simply not normal? It's worse than trying to prove a negative. It's being asked to defend one's human uniqueness. There is no legal or even internal departmental regulatory requirement I know of requiring employees to be normal. This would be a first, a potentially dangerous first.
3. Were you aware that the federal drug testing program government-wide no longer asks test subjects in advance of the test to advise what drugs or supplements or other substances they are taking which might affect the results? At least that's what the Department of State Medical Office insists. If that is true, then the employee whose urine test is outside the norm and suspected of being substituted or adulterated is automatically on the defensive and decidedly asked to play catch-up. Your proposed regulations point to the employee's right to produce medical records showing prescribed medications. With the increased availability of over-the-counter medications such as pyridium for urinary tract infections, how could an employee possibly prove that the presence of the substance in the specimen is because of self-treatment? I am assuming here, by the way, that testing for the levels of pyridine would detect pyridium, though I am no scientist.

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4. My last point is that one almost has to be a scientist to make any sense at all of your proposed regulatory changes. I realize you have to write them in terms that are technical and precise and specific. I am concerned, however, that you will receive very little feedback either from people whose lives will be directly affected by these changes, or from civil libertarians who see a creeping stranglehold by the testing industry on a program that private industry is increasingly abandoning as not cost- nor efficiency-effective.

Sincerely,

A handwritten signature in cursive script that reads "Charla Hatton".

Charla Hatton